

The Honorable John H. Chun

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff

v.

DONALD WATTERS,

Defendant.

NO. CR22-159-JHC

**PROTECTIVE ORDER**

This matter comes before the Court on the Unopposed Motion for Entry of a Discovery Protective Order regarding discovery materials, as permitted by Fed. R. Crim. P. 16(d). Having considered the record and files herein, the Court finds there is good cause to grant the unopposed motion, and hence:

IT IS HEREBY ORDERED that the discovery materials discussed in the Motion and referred to therein as “Protected Material,” and listed, marked, or designated specially as “Protected Material” or “Protected,” may be produced to counsel for the defendant in this case.

IT IS FURTHER ORDERED that possession of Protected Material is limited to the attorneys of record in this case and their staff, and to any investigators, expert witnesses, and other agents the attorneys of record retained in connection with this case (the “Defense Team”). The attorneys of record, and their investigators, expert witnesses, and other agents can review Protected Material with the defendant. The defendant can inspect and review

1 Protected Material, but shall not be allowed to possess, photograph, or record Protected  
2 Material or otherwise retain Protected Material or copies thereof.

3 IT IS FURTHER ORDERED that defense counsel shall not provide Protected  
4 Material or copies thereof to any other person who is outside his or her law office and is  
5 not a member of the Defense Team, including the defendant or his family or associates.  
6 Other members of the Defense Team also shall not provide Protected Material or copies  
7 thereof to any other person who is not a member of the Defense Team, including the  
8 defendant or their families or associates. A defendant residing at the Federal Detention  
9 Center (FDC) is permitted to review the Protected Material, consistent with the regulations  
10 established by the Bureau of Prisons, with or without counsel in a controlled environment  
11 at the FDC, but is prohibited from printing out, copying, or disseminating the discovery.  
12 Defendants on pretrial release are permitted to review the Protected Material at the offices  
13 of their counsel, but are prohibited from printing out, copying, or disseminating the  
14 discovery.  
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16 IT IS HEREBY FURTHER ORDERED that the defendant, defense counsel, and  
17 other members of the Defense Team shall not otherwise disclose the Protected Material or  
18 its contents to any other person, other than as necessary for the preparation of defenses at  
19 trial and in subsequent appellate proceedings, if necessary.  
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21 This order does not limit employees of the United States Attorney's Office for the  
22 Western District of Washington from disclosing the Protected Material to members of the  
23 United States Attorney's Office, federal law enforcement agencies, the Court, or witnesses  
24 in order to pursue other investigations or the prosecution in this case. Nor does it limit  
25 employees of the United States Attorney's Office for the Western District of Washington  
26 from disclosing the Protected Material to the defense as necessary to comply with the  
27 government's discovery obligations.  
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1 IT IS FURTHER ORDERED that if counsel for the defendant finds it necessary to  
2 file any documents marked as Protected Material, the material shall be filed under seal with  
3 the Court. This does not entitle either party to seal their filings as a matter of course.  
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5 IT IS FURTHER ORDERED that at the conclusion of the case, the Protected  
6 Material shall be returned to the United States, or destroyed, or otherwise stored in a  
7 manner to ensure that it is not subsequently duplicated or disseminated in violation of this  
8 Protective Order.

9 Nothing in this Order shall prevent any party from seeking modification of this  
10 Protective Order or from objecting to discovery that it believes to be otherwise improper.  
11 In the event that compliance with this Order makes it difficult for defense counsel to  
12 adhere to their Sixth Amendment obligations, or otherwise imposes an unworkable  
13 burden on counsel, defense counsel shall bring any concerns about the terms of the Order  
14 to the attention of the government. The parties shall then meet and confer with the  
15 intention of finding a mutually acceptable solution. For example, upon agreement of  
16 counsel for the government, members of a defense team may provide copies of specific  
17 Protected Material, or redacted versions of such material, to a defendant. When seeking  
18 the government's agreement to give such a copy to a defendant, members of the defense  
19 team will identify with reasonable particularity, including (where available) the specific  
20 Bates-numbered pages and or recording descriptions, the specific material defense  
21 counsel proposes to give to the defendant. Unless expressly stated otherwise by the  
22 government, copies of Protected Material to be provided to the defendant will continue to  
23 be Protected Material subject to all of the protections of the Court's Order, with the sole  
24 exception that a copy can be given only to the defendant (and not shared with anyone else  
25 outside the defense team). If counsel for the government and counsel for the defendant  
26 cannot reach agreement on whether particular portions of the Protected Material or  
27 redacted versions of Protected Material should be given to a defendant under these  
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1 conditions, defense counsel may raise the issue with the Court by way of a motion.  
2 Defense counsel shall have the right to bring any concerns about the scope or terms of the  
3 Order to the attention of the Court by way of a motion.  
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5 Nothing in this order should be construed as imposing any discovery obligations on  
6 the government that are different from those imposed by case law and Rule 16 of the  
7 Federal Rules of Criminal Procedure. The failure to list, mark, or designate any materials  
8 as provided in paragraph 2 shall not constitute a waiver of a party's assertion that the  
9 materials are covered by this Protective Order.

10 This Protective Order does not constitute a ruling on the question of whether any  
11 particular material is properly discoverable or admissible and does not constitute any ruling  
12 on any potential objection to the discoverability of any material.

13 The Clerk of the Court is directed to provide a filed copy of this Protective Order to  
14 all counsel of record.

15 DATED this 5th day of October, 2022.

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18 HON. JOHN H. CHUN  
19 United States District Judge

20 Presented by:

21 s/ William Dreher  
22 WILLIAM DREHER  
23 Assistant United States Attorney  
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